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action. The court decided in favor of the latter view, thus sustaining Pomeroy's analysis, although a short dissenting opinion by the Chief Justice approved the other theory. This, then, disposes of the numerous English cases cited by the author.

In this country there is more uncertainty. The case of *King* v. *Chicago, M. & St. P. Ry. Co.*, 80 Minn. 83, cited by the author, is directly in point, and fully sustains his position. *Hazard Powder Co.* v. *Volger* (1888), 3 Wyo. 189, not cited by the author, is a case of precisely the same nature, and was decided the same way, while on the other hand, *Smith* v. *Warden* (1885), 86 Mo. 382, also not cited by the author, held, under exactly the same facts, that there were two causes of action. So in the recent case of *Watson* v. *Texas, etc., R. R. Co.*, (1894), 8 Tex. Civ. App. 144, which the author seems not to have found, an injury to both person and property by the same wrongful act, was held to give rise to two distinct causes of action. And the case of *Chicago N. D. Ry. Co.* v. *Ingraham* (1890), 131 Ill. 659, which he cites without comment as supporting his own view, will be seen upon examination to incline rather to the position of Pomeroy. But none of the American cases upon the point can be termed well-reasoned. Even *King* v. *Chicago M. & St. P. Ry Co.*, rests the decision upon the ground of simplicity and directness, and makes no attempt at a comprehensive analysis.

It would seem that a simple reference to the wording of the Codes would be conclusive upon the matter. Most of them provide that the complaint shall contain, among other requisites, "a plain and concise statement of the facts constituting a cause of action, without unnecessary repetition." And a demurrer may be filed to a complaint which does not contain these facts. Any facts, then, the absence of which from the complaint will give ground for a general demurrer, are essential to a cause of action, and it is clear that the two classes of facts which must be stated are: (1) Those showing the plaintiff's primary right (except in those cases where the law presumes it); and (2) those showing the infringement of this right by the defendant. The cause of action, as the term is employed to the American codes, must then consist of these two elements.

The author has made a serious study of the subject, and his monograph contains many illuminating suggestions and new points of view. While, therefore, we do not think his logic faultless or his research exhaustive, he has thrown much uew light upon a subject which is at once fundamental and elusive, and his book is well worth perusal.

EDSON R. SUNDERLAND

"CYCLOPEDIA OF LAW AND PROCEDURE." Edited by William Mack and Howard P. Nash. The American Law Book Company: New York. Butterworth & Company: London.

The impossibility of giving, within the limits ordinarily set to a review, anything like an adequate idea of so extensive a compilation as the "Cyclopedia of Law and Procedure," will be at once apparent to the reader. The work is of large proportions. Four volumes have already been issued, the first three of which are before us. Some idea of the extent of the work in complete form may be gathered from the fact that the subjects (in alphabeti-

cal order) treated in the first three volumes reach only the title "Assignee." The first three volumes contain 3365 imperial octavo pages. In size and clearness of type, in quality of paper, in indication of subjects so as readily to catch the eye, and in all that pertains to the bookmaker's art, nothing could be desired beyond what is exemplified in this work, save only that the volumes are too large. If each volume had been divided into two, the utility of the work, in the writer's judgment, would have been greatly enhanced—so greatly as to offset entirely the extra cost of doubling the number of volumes. The objection to ponderous volumes is not captious, nor is it peculiar to individual practitioners. Lawyers want a lawbook which they can take into their hands and use without providing a desk or table to lay it upon. The size of these volumes—the only blemish upon their bodily appearance—cannot fail, in and of itself, to limit their use.

The special feature of this work—that which, it is claimed, distinguishes it from works of similar character and aims—is the method of treating the subjects discussed. Concerning this feature, the editors declare: "With reference to the particular titles, there will be no splitting up of the law along the arbitrary line alleged to divide pleading and practice from substantive law; but the whole of each topic, including pleading, references to suitable forms, evidence, and questions of law and fact, will be treated under a single head." The plan of treating the whole of each topic in a single work, without reference to the frequently fanciful division between substantive law and adjective law, will commend itself to the profession. The practitioner has little if any occasion to discriminate, while making his investigation of a practical question, between these arbitrary and fanciful divisions of the subject. What he is seeking is what the law is and what the remedies are in his particular case. To him it is economy of time and saving of expense to be able to find in a single cyclopedia what he is seeking, and not to be compelled to go to two or three cyclopedias to accomplish his purpose. The volumes before us are comprehensive enough to enable him to make his preliminary examination of the whole subject under investigation, and for such purpose they seem well adapted. The function of such a work does not extend beyond the field of preliminary examination of legal questions. For such purposes the "Cyclopedia of Law and Procedure," measured by the first three volumes, is a work of merit which will not fail to prove a valuable addition to the working library of the practicing lawyer, whose time it will save and whose readiness and efficiency it will promote; but to expect that such a work will result in furnishing to members of the profession a complete working library, is to expect what will not be realized. Such a work is at best only a tool in the set. To the law library such a work is something akin to what dictionaries and encyclopedias are to the general library.

The glossary of legal maxims appearing throughout the volumes in the alphabetical order of other subjects, and "presented in both the original and vernacular tongues," will be a convenient aid to all users of the work, and an indispensable aid to many practitioners to whom maxims and phrases of the law expressed in the "original tongue" are meaningless. This feature of the work is in conformity with the general purpose of the editors to "treat the whole of each topic."

The analysis of the subjects preceding their treatment seems to justify the

promise of the editors that it shall be logical and minute, and, coupled with the cross references with which it is accompanied, affords the means of examining particular phases of the subject without waste of time.

In competing for a place in a field already pretty well occupied by works of the cyclopedic type, the peculiar plan of the "Cyclopedia of Law and Procedure" of treating each topic in its entirety, as heretofore pointed out, ought to be, and the writer believes will be, a valuable aid. Whether the promise of the editor that "many of the articles shall be written or examined and approved by men of marked learning and skill in the particular subjects edited by them," will be an additional aid, depends upon the scope of the promise, which as expressed may mean much or little, and the fidelity with which the promise in its enlarged sense is kept.

ROBT. E. BUNKER

PAGE ON WILLS—A concise treatise on the Law of Wills. By William Herbert Page, Professor of Law in Ohio State University. 1 Volume. W. H. Anderson & Co., Cincinnati, Ohio. 1901.

The writer of this work states in its preface that it is written both for the student and the practitioner. A review of any literary work which loses sight of the object for which it is claimed to have been published would be unsatisfactory, and, if a general criticism, very unfair.

From the view point of the writer, then, his work will be briefly considered.

The branch of the law treated by Mr. Page is one, which, considering its importance, has attracted few great law writers. A first-class text-book upon this subject will be appreciated by the profession. Within the last twenty-five years there has been large growth along certain lines in this branch of the law, particularly in respect to the law of devises and legacies, powers and testamentary trusts. It is to be greatly doubted whether the entire subject of wills can now be satisfactorily condensed into one volume which will be received as standard authority by the profession. For this reason alone, the work under consideration, taken as a whole, does not fulfil the claim of its author for the general use of the practitioner. Although this is true of the book as a whole, yet in introducing some excellent chapters on the subject of probate and contest of wills, the author is entitled to great credit. About two hundred pages are devoted to this branch of the subject, which, with the well-considered notes and numerous citations, make up the most useful and practical portions of the book to the active practitioner. In no other volume on wills will the probate lawyer find so great an amount of this valuable material collected and classified. To such a lawyer, for this feature, Mr. Page's work will be acceptable and very valuable.

In the matter of the primary object of the work, to provide for the student a satisfactory text-book upon the subject, the writer has been very successful. That the author is also a teacher is in evidence throughout the work. All who are actively engaged in teaching in the law schools, understand that a principle cannot be stated in language too simple and concise, or be too often repeated to the students. With the text-writer, the first of these accomplishments makes his work most acceptable, while the second renders it tiresome. This author as to the first is to be congratulated upon his ability to make